

**FILED**

**OCTOBER 17, 2007**

**KAREN S. MITCHELL  
CLERK, U.S. DISTRICT COURT**

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
AMARILLO DIVISION

---

DAMEON DANCER, PRO SE,	§	
TDCJ-CID No. 1374693,	§	
Previous TDCJ-CID No. 1244034,	§	
	§	
Plaintiff,	§	
	§	
v.	§	2:07-CV-0082
	§	
HOCKLEY COUNTY SHERIFF'S	§	
DEPARTMENT,	§	
	§	
Defendant.	§	

**MEMORANDUM OPINION AND ORDER OF DISMISSAL**

Plaintiff DAMEON DANCER, proceeding *pro se* and while a prisoner in the custody of the Texas Department of Criminal Justice, Correctional Institutions Division, has filed suit pursuant to Title 42, United States Code, section 1983 complaining against the above-named defendant and was granted permission to proceed in forma pauperis.

On September 26, 2007, a Report and Recommendation was issued by the United States Magistrate Judge analyzing plaintiff's claims and recommending dismissal with prejudice as frivolous and, in the alternative, recommending dismissal without prejudice for failure to state a claim on which relief can be granted.

Plaintiff filed an Amended Complaint on October 11, 2007.

The Court has made an independent examination of the records in this case and has examined the Magistrate Judge's Report and Recommendation, as well as the October 11, 2007 Amended Complaint filed by the plaintiff.

Through the Magistrate Judge's Report and Recommendation, plaintiff was informed the sole defendant, HOCKLEY COUNTY SHERIFF'S DEPARTMENT, is a non-juridical entity, not capable of suing or being sued. *Rideau v. Jefferson County*, 899 F.Supp. 298, 301 (E.D.Tex. 1995). In light of plaintiff's pro se status, the remedy is permissive amendment of the complaint to name the correct defendant, if any; however, by his Amended Complaint, plaintiff has not attempted to cure this defect. Plaintiff's claims against the HOCKLEY COUNTY SHERIFF'S DEPARTMENT are, therefore, frivolous. *Neitzke v. Williams*, 490 U.S. 319, 109 S.Ct. 1827, 104 L.Ed.2d 338 (1989).

The Court is of the opinion that the Report and Recommendation of the United States Magistrate Judge should be ADOPTED by the United States District Court, as supplemented herein.

This Court, therefore, does hereby ADOPT the Report and Recommendation of the United States Magistrate Judge, as supplemented herein.

IT IS THEREFORE ORDERED that, pursuant to Title 28, United States Code, sections 1915A and 1915(e)(2), the Civil Rights Complaint filed pursuant to Title 42, United States Code, section 1983, by plaintiff DAMEON DANCER is DISMISSED WITH PREJUDICE AS FRIVOLOUS.

LET JUDGMENT BE ENTERED ACCORDINGLY.

All pending motions are DENIED.

The Clerk will mail a copy of this Order to the plaintiff, and to any attorney of record by first class mail. The Clerk will also mail a copy to TDCJ-Office of the General Counsel, P.O. Box 13084, Capitol Station, Austin, TX 78711 and to the Pro Se Clerk at the U.S. District Court for the Eastern District of Texas, Tyler Division.

IT IS SO ORDERED.

ENTERED this 17th day of October, 2007.

/s/ Mary Lou Robinson  
MARY LOU ROBINSON  
UNITED STATES DISTRICT JUDGE